



FmHA AN No. 3102 (1955-C)

December 22, 1994

SUBJECT: Advertisement and Sale of Farmer Programs Inventory
Property When No Credit Sale Funds are Available

TO: All Acting State Directors, Rural Economic
and Community Development Service

ATTN: Farmer Programs Chiefs

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to provide guidance on how to handle the management, sales, and leases of inventory farm properties since there are no credit sale funds currently available.

IMPLEMENTATION RESPONSIBILITIES:

At this time, there are no Farmer Programs credit sale funds available for Fiscal Year 1995. It is therefore necessary to make some changes in the way Consolidated Farm Service Agency (CFSA) manages and sells its inventory property. The following sections of this AN will outline the steps necessary for managing, leasing, and selling inventory farm properties when no credit sale funds are available.

1. Expiring Leaseback/Buyback and Homestead Protection Agreements:

When leaseback/buyback lessees apply to purchase the farm they are operating, they will be informed that CFSA does not have credit sale funds and, therefore, credit cannot be provided. They will be assisted in obtaining financial assistance from other lenders if possible, including an CFSA guaranteed loan. If they are unable to secure financing, the County Supervisor will request the Administrator's Exception to continue leasing the property to the leaseback/buyback lessee. The lease may be extended for a term not to exceed 3 years and will contain an option to purchase.

EXPIRATION DATE: December 31, 1995

**FILING INSTRUCTIONS:
Preceding FmHA
Instruction 1955-C**



Exceptions to extend the lease will be granted in cases in which proof can be provided that the lessee is unable to obtain the credit necessary to purchase the farm. The purchase price of the property will be the market value of the property as of the date the option is exercised.

FOR HOMESTEAD PROTECTION AGREEMENTS WHICH ARE EXPIRING, CFSA CANNOT EXTEND THE LEASE TERMS. HOMESTEAD PROTECTION LESSEES SHOULD BE NOTIFIED AT LEAST 6 MONTHS PRIOR TO THE EXPIRATION OF THEIR HOMESTEAD PROTECTION AGREEMENT THAT CFSA DIRECT CREDIT ASSISTANCE IS NOT AVAILABLE AND THAT OTHER FINANCING SHOULD BE SOUGHT.

2. Sales Agreements:

In cases where the County Committee made a selection of an applicant but there is no signed Standard Sales Contract, Form FmHA 1955-45, the sale may be completed. If the selected applicant cannot produce the funds necessary to purchase the property, the sale will be cancelled and the property will be readvertised for sale in accordance with Section #3 of this AN.

If the Standard Sales Contract has been signed by CFSA and the sale was based upon an CFSA credit sale, the applicant will be given two options. First, the applicant will be provided an opportunity to purchase the property. Secondly, if the applicant cannot secure the necessary funding, they will be afforded the opportunity to lease the property for a 1 to 3-year period with an option to purchase. The purchase price of the property will be the market value of the property as of the date the option is exercised.

3. Advertisement and Sale:

CFSA will continue its efforts to sell both suitable and surplus inventory farm properties. All advertisements should state that CFSA will be unable to directly finance the sale due to a lack of credit sale funds. Since no credit sale funds are available, CFSA personnel will assist applicants for suitable properties in obtaining CFSA guaranteed loans, where such funds are available.

Sales of suitable inventory farm property will still be handled in accordance with Section 1955.107(f) of FmHA Instruction 1955-C. Applicants in categories 1 through 4 may still purchase inventory farms if they are eligible for guaranteed loan assistance. If applicants in these first four categories are not eligible for a guaranteed loan, then they should be notified accordingly, and the applicants (if any) in category 5 should be given consideration.

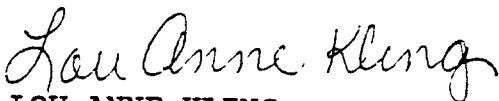
If CFSA is unsuccessful in selling a property, leasing should be considered as outlined in Section #4 of this AN. Surplus properties will continue to be sold by the use of sealed bids or public auctions. The only change in the process of selling surplus property is that CFSA cannot offer any credit assistance including the use of nonprogram loans.

4. General Leasing of Inventory Property:

Suitable inventory farm property will be advertised for sale in accordance with Section 1955.108 of FmHA Instruction 1955-C. The second advertisement will contain a statement that CFSA will lease the property for up to a 3-year term with an option to purchase if CFSA's attempt to sell it is unsuccessful. CFSA will select lessees in accordance with the priority selection criteria outlined in Section 1955.107 of FmHA Instruction 1955-C. This priority selection criteria will be used in all advertisements for lease. The advertisement will also state that CFSA financing will be subject to the availability of funds. A statement to this effect will also be included as a special stipulation in the lease agreement. The purchase price of the property will be the market value of the property as of the date the option is exercised.

PLEASE BE REMINDED THAT ANY SALES CONTRACTS OR LEASE AGREEMENTS ENTERED INTO MUST CONTAIN A STATEMENT THAT CFSA'S OBLIGATION TO FINANCE THE SALE IS CONTINGENT UPON THE AVAILABILITY OF LOAN FUNDS. IN THE CASE OF PREACQUISITION LEASEBACK/BUYBACK AND/OR HOMESTEAD PROTECTION, THE AGREEMENTS SHOULD ALSO BE MODIFIED WITH THE CONTINGENCY AND THE FORMER OWNER ADVISED OF THE LACK OF CREDIT SALE FUNDS.

If you have any questions concerning this AN, contact James P. Fortner or Gary West of the Farm Credit Programs Loan Servicing and Property Management Division.



LOU ANNE KLING
Acting Deputy Administrator
Farm Credit Programs
Consolidated Farm Service Agency